IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1356 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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RASIKLAL JIVANLAL GOHIL & 1 - Appellant(s)
Versus
PARSOTTAMBHAI BAKORBHAI SOLANKI & 1 - Defendant(s)

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Appearance :
MR SUNIL B PARIKH for Appellant(s) : 1 - 2.
MR MD PANDYA for Defendant(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 25/07/2006

ORAL JUDGMENT

1. By way of this appeal, the appellants have challenged the judgement and award dated 23.11.87 passed by the Motor Accident Claims Tribunal (A) at Nadiad in MACP No. 504 of 1984 whereby the Tribunal has awarded Rs. 43,000/- to the claimants alongwith 12% running interest together with the proportionate costs.

2. The appellants herein being the parents of the deceased, had filed a claim petition seeking compensation to the tune of Rs. 1,00,000/- in respect of the accident which occurred on 01.05.84 when the son of the appellants

was coming home on his bicycle from Petlad railway station. At that time, an S.T bus bearing no. GRS 8555 driven by respondent no.1 in excessive speed came from behind and knocked down the son of the appellants which ultimately led to his death. The Tribunal after hearing the parties passed the aforesaid award.

3. Mr Sunil Parikh, learned counsel appearing for the appellants has contended that the Tribunal erred in considering the dependency benefit in respect of the deceased boy at Rs. 125/- per month. He has further contended that the Tribunal not considered the decision of the Apex Court in the case of ***"U.P. State Road Transport Corporation and Ors. Vs. Trilok Chandra & Ors."*** reported in 1996(3)GLR 136 for calculating the future loss of income.

4. Mr M.D Pandya, learned advocate appearing for the respondents has submitted that no interference is required in the matter as even otherwise the Tribunal has awarded excess amount as compensation as a result of application of a higher multiplier. He has further submitted that the Tribunal even in absence of proper evidence has considered the income of the deceased at Rs. 900/- per month.

5. Heard learned counsel for the parties. I have gone through the award of the Tribunal and other documents placed on record. As a result of the perusal of para 11 & 12 of the award, wherein the income of the deceased and the dependency loss of the appellants is ascertained, I am of the opinion that the dependency benefits granted to the appellants whose son aged 18 years died is definitely on the lower side.

5.1 In that view of the matter, the monthly income of the deceased is taken as Rs. 750/- and the monetary loss to the appellants would therefore come to Rs. 250/-. Now in view of the decision of the Apex Court in the case of ***"U.P. State Road Transport Corporation (Supra)***, the future loss is to be calculated on the basis of average of double the income and the same comes to Rs. 375/- per month and Rs. 4500/- per annum in the present case.

5.2 However, considering the age of the parents, I am of the view that the multiplier of 18 is on the higher side and in the present case it would be appropriate to apply a multiplier of 10. In that view of the matter, the dependency benefit shall come to Rs. 45,000/- whereas the Tribunal has awarded Rs. 27,000/- towards the same.

Moreover, the Tribunal has wrongly awarded Rs. 5000/- towards future increments thereby making the total award amount at Rs. 43000/-. In that view of the matter, the appellants shall be entitled to Rs. 56,000/- towards the total claim amount.

6. In the premises aforesaid, the appeal is partly allowed. The appellants shall be entitled to an additional amount of Rs. 13,000/- with running interest at the rate of 6% per annum from the date of application till realization. The award of the Tribunal is modified to the aforesaid extent. No order as to costs.

(K.S. JHAVERI, J.)

Divya//